

OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments are directed to the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) administrative rules liaison, Gretchen Geis, at GGeis@odmhsas.org.

ODMHSAS COMMENT DUE DATE: 5 p.m. on March 5, 2015

The proposed policy is a PERMANENT Rule. This proposal is scheduled to be presented for public comment during a public hearing on March 9, 2015 and to the ODMHSAS Board of Directors for adoption on March 27, 2015.

Reference #: 23-2015P

SUMMARY:

Proposed revisions to Chapter 23 include an update to the definition of "Emergency Examination" to correspond with definitions in 43A. Revisions are also made to allow Urgent Care Facilities to operate in conjunction with facility-based crisis centers or as stand-alone facilities. Other revisions are made to provide clarity to certification processes, standards and criteria.

LEGAL AUTHORITY

43A O.S. § 3-317; Board of Mental Health and Substance Abuse Services.

RULE IMPACT STATEMENT

**STATE OF OKLAHOMA
OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

PROPOSED RULES:

Chapter 23. Standards and Criteria for Community-Based Structured Crisis Centers [AMENDED]

1. BRIEF DESCRIPTION OF THE PURPOSE OF THE RULE:

Proposed revisions to Chapter 23 include an update to the definition of "Emergency Examination" to correspond with definitions in 43A. Revisions are also made to allow Urgent Care Facilities to operate in conjunction with facility-based crisis centers or as stand-alone facilities. Other revisions are made to provide clarity to certification processes, standards and criteria.

2. A DESCRIPTION OF THE CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE, INCLUDING CLASSES THAT WILL BEAR THE COST OF THE PROPOSED RULE, AND ANY INFORMATION ON

COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:

Organizations or individuals certified by, under contract with, or subject to certification by ODMHSAS, and the consumers and employees of each.

3. A DESCRIPTION OF THE CLASSES OF PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:

Organizations or individuals certified by, under contract with, or subject to certification by ODMHSAS, and the consumers and employees of each.

4. A DESCRIPTION OF THE PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON THE AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS, INCLUDING A LISTING OF ALL FEE CHANGES AND, WHENEVER POSSIBLE, AND A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:

ODMHSAS does not anticipate an economic impact on any affected classes of persons or political subdivisions that meet minimum certification standards as currently required by this Chapter.

5. THE PROBABLY COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE, AND ANY ANTICIPATED EFFECT ON STATE REVENUES, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUE IF IT CAN BE PROJECTED BY THE AGENCY:

ODMHSAS has determined implementation of these rules will benefit those affected parties by clarifying and enhancing certification and contracting processes.

6. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISIONS OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE:

ODMHSAS does not anticipate these rules will have an economic impact upon any political subdivision, or require their cooperation to implement or enforce the proposed rule revision.

7. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS

PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:

ODMHSAS has determined these rule revisions will not have an adverse economic impact on small businesses that meet minimum certification standards as currently required by this Chapter.

- 8. AN EXPLANATION OF THE MEASURES THE AGENCY HAS TAKEN TO MINIMIZE COMPLIANCE COSTS AND A DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NON-REGULATORY METHODS OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULE:**

Throughout the year ODMHSAS staff evaluate internal processes and amend those processes and rules according to identified needs. ODMHSAS considers these revisions the least burdensome and intrusive method in streamlining these processes and accomplishing statutory compliance.

- 9. A DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT AND, IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, AN EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK.**

ODMHSAS anticipates these rule revisions will enhance the ability to provide behavioral health treatment by clarifying certification requirements and contracting expectations and ensuring an efficient response to specific treatment issues.

- 10. A DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED.**

The proposed amendments are anticipated to refine the certification and/or contracting processes for behavioral health and to establish a means for the Department to quickly respond to consumer treatment issues via certification and/or contracting processes.

DATE PREPARED:

January 7, 2015

**CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED
STRUCTURED CRISIS CENTERS**

SUBCHAPTER 1. GENERAL PROVISIONS

450:23-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the defined meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by O.S. 43A 3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Consumer" means an individual, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons.

"Co-occurring disorder" means any combination of mental health and substance use disorder symptoms or diagnoses in a client.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health and/or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Emergency detention" as defined by 43A § 5-206 means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, except upon a court order authorizing detention beyond a one hundred twenty (120) hour period or pending the hearing on a petition requesting involuntary commitment or treatments provided by 43A of the Oklahoma Statutes.

"Emergency examination" For adults: means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted. The examination must occur within twelve (12) hours of being taken into protective custody.

"Homeless" a homeless person is a person who; a) lacks a fixed, regular and adequate night time residence AND b) has a primary nighttime residence that is a supervised publicly or privately operated shelter designated to provide temporary living accommodations including welfare hotels, congregate shelters, half way houses, and transitional housing for the mentally ill; or an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, not limited to people living on the streets. Individuals are considered homeless if they have lost their permanent residence, and are temporarily living in a shelter to avoid being on the street.

"Initial Assessment" means examination of current and recent behaviors and symptoms of a person or minor who appears to be mentally ill or substance dependent.

"Intervention plan" means a description of services to be provided in response to the presenting crisis situation that incorporates the identified problem(s), strengths, abilities, needs and preferences of the individual served.

"Licensed mental health professional" or "LMHP" as defined in Title 43A § 1-103(11).

"Linkage services" means the communication and coordination with other service providers that assure timely appropriate referrals between the CBSCC and other providers.

"Minor" means any person under eighteen (18) years of age.

"Oklahoma Administrative Code" or "OAC" means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Performance Improvement" or "PI" means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous

performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf/hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness and/or substance abuse disorders. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"PICIS" means a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body. For minors: mechanical restraints shall not be used.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Triage" means a dynamic process of evaluating and prioritizing the urgency of crisis intervention needed based on the nature and severity of consumers' presenting situations.

"Trauma Informed" means the recognition and responsiveness to the presence of the effects of past and current traumatic experiences in the lives of all consumers.

SUBCHAPTER 3. CBSCC SERVICES

PART 1. FACILITY BASED-CRISIS STABILIZATION

450:23-3-2. Facility based crisis stabilization

- (a) The CBSCC shall provide crisis stabilization to individuals who are in crisis as a result of a mental health and/or substance use disorder related problem. Each crisis stabilization program must be specifically accessible to individuals who present with co-occurring disorders. The CBSCC must have the capability of providing services to individuals who are in emergency detention status. The CBSCC may provide services in excess of 24 hours during one episode of care.
- (b) Crisis stabilization services shall be provided in the least restrictive setting possible. Services should be provided within, or as close to the community in which they reside as possible.
- (c) A physician shall be available at all times for the crisis unit, either on-duty or on call. If the physician is on call, he or she shall respond by telephone or in person to the licensed staff on duty at the crisis unit within 20 minutes.
- (d) Crisis stabilization services shall include, but not be limited to, the following service components and each shall have written policy and procedures and each shall be co-occurring disorder capable and trauma informed, with policies and procedures that support this capability:
 - (1) Triage ~~crisis response~~services;
 - (2) Co-occurring capable Psychiatric crisis stabilization; and
 - (3) Co-occurring capable Drug/alcohol crisis stabilization.
- (e) The CBSCC shall have written policy and procedures addressing mechanical restraints for adults only, and these shall be in compliance with 450:23-9-4.
- (f) Compliance with 450:23-3-2 shall be determined by on-site observation, and a review of the following: clinical records; ICIS information; and the CBSCC policy and procedures.

450:23-3-3. Crisis stabilization, triage ~~response~~

- (a) Crisis stabilization services shall include twenty-four (24) hour triage ~~response~~services and emergency examination.
- (b) Qualified staff providing triage ~~crisis response~~services shall be:
 - (1) Clinically privileged pursuant to the CBSCC's privileging requirements for crisis stabilization services; and
 - (2) Knowledgeable about applicable laws, ODMHSAS rules, facility policy and procedures, and referral sources.
- (c) Components of this service shall minimally include the capacity to provide:
 - (1) Immediate response, on-site and by telephone;
 - (2) ~~Integrated screening~~Screening for the presence of co-occurring disorders;
 - (3) ~~On-site~~Face-to-face emergency ~~integrated~~mental health and/or substance use disorder examination; and
 - (4) Referral, linkage, or a combination of the two services.
- (d) The CBSCC shall have written policy and procedures minimally:
 - (1) Providing twenty-four (24) hour, seven (7) days per week, triage crisis ~~response~~ services; and

(2) Defining methods and required content for documentation of each triage ~~crisis response~~ service provided.

(3) Ensuring that individuals who present in crisis with co-occurring disorders are identified, and that there are no barriers to access triage ~~crisis response~~ services based on arbitrary alcohol or drug levels, types of diagnosis or medications while remaining in compliance with facility certification, licensure, and medical standards. Nothing in this Section shall require a facility to treat a consumer is not medically stable pursuant to Title 43A.

(e) Compliance with 450:23-3-3 shall be determined by a review of the following: clinical privileging records; personnel files and job descriptions; policy and procedures, program description; on-site observation; and clinical documentation of services provided.

450:23-3-5. Crisis stabilization, psychiatric, substance use disorder and co-occurring services

(a) Crisis stabilization services shall provide continuous twenty-four (24) hour evaluation, observation, crisis stabilization, and social services intervention seven (7) days per week for consumers experiencing mental health or substance use disorder related crises; ~~consumers in need of assistance for emotional or mental distress~~; or those who present with co-occurring disorders.

(b) Licensed nurses and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.

(c) Crisis stabilization services shall be provided by a co-occurring disorder capable multidisciplinary team of medical, nursing, social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served.

(d) Staff members assigned to a medical supervised detoxification component shall be knowledgeable about the physical signs of withdrawal, the taking of vital signs and the implication of those vital signs, and emergency procedures as well as demonstrating core competencies in addressing the needs of individuals receiving detoxification services who may have co-occurring mental health disorders and be on psychotropic medication.

(e) Services shall minimally include:

(1) Medically-supervised substance use disorder and mental health screening, observation and evaluation;

(2) Initiation and medical supervision of rapid stabilization regimen as prescribed by a physician, including medically monitored detoxification where indicated;

(3) Medically-supervised and co-occurring disorder capable detoxification, in compliance with procedures outlined in OAC Title 450, Subchapter 18;

(4) Intensive care and intervention during acute periods of crisis stabilization;

(5) Motivational strategies to facilitate further treatment participation for mental health and/or substance abuse needs; and,

(6) Providing referral, linkage or placement, as indicated by consumer needs.

(f) Crisis stabilization services, whether psychiatric, substance use disorder, or co-occurring, shall be utilized only after less restrictive community resources have been determined to be inadequate to meet the current needs of the consumer.

(g) Compliance with 450:23-3-5 shall be determined by a review of the following: personnel files and clinical privileges records; clinical records; ICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.

450:23-3-7. Linkage Services to higher or lower levels of care, or longer term placement

(a) Persons needing mental health services shall be treated with the least restrictive clinically appropriate methods.

(b) In cases where consumers are not able to stabilize in or are not appropriate for the CBSCC unit, linkage services shall be provided, including the following steps:

(1) Qualified CBSCC staff shall perform the crisis intervention and referral process to the appropriate treatment facility.

(2) ~~The referral process shall occur only after all other less restrictive community resources have been discussed~~require referral to the least restrictive service to meet the needs of the consumer. The referral shall be discussed with the consumer, the consumer's legal guardian, or both the consumer and legal guardian as applicable, and shall include a discussion of why a less restrictive community resource was not utilized if applicable. This discussion shall be documented in the consumer's record.

If an adult consumer wishes to include family members in the decision making process, appropriate releases should be obtained.

(3) Staff shall make referral to an appropriate treatment facility to include demographic and clinical information and documentation. Appropriate releases should be obtained as indicated.

(c) If the CBSCC is referring an adult to a state-operated inpatient facility, the consumer must meet the criteria in OAC 450:30-9-3 and the CBSCC must comply with OAC 450:30-9-4.

(d) Compliance with 450:23-3-7 shall be determined by a review of the following: clinical records; psychiatric hospital information and admission records as applicable; ~~ICIS~~consumer data required for submission to ODMHSAS; and PI monitoring information as available from both the CBSCC and the psychiatric inpatient hospital.

PART 2. URGENT RECOVERY CLINIC SERVICES

450:23-3-20. Applicability

The services in this Part are optional services. However, if the services in this Part are provided, either on the initiative of the facility, or as an ODMHSAS contractual requirement of the facility, all rules and requirements of this Part shall apply to the facility's certification. Urgent Recovery Clinics can operate in conjunction with a facility-based crisis stabilization unit or as a stand-alone facility.

450:23-3-21. Urgent Recovery Clinic services

(a) Urgent Recovery Clinics (URC) offer services aimed at the assessment and immediate stabilization of acute symptoms of mental illness, alcohol and other drug abuse, and emotional distress ~~or in response to acts of domestic violence or abuse/neglect~~. Each facility must be specifically accessible to individuals who present

with co-occurring disorders. URCs shall not provide more than twenty-three (23) hours and fifty-nine (59) minutes of services to a consumer during one episode of care.

(b) URC services shall include, but not be limited to, the following service components and each shall have written policy and procedures and each shall be co-occurring disorder capable and trauma informed, with policies and procedures that support this capability:

- (1) Triage crisis response;
- (2) Crisis intervention;
- (3) Crisis assessment;
- (4) Crisis intervention plan development; and
- (5) Linkage and referral to other services as applicable.

450:23-3-22. Triage Urgent Recovery crisis response

(a) URC services shall include twenty-four (24) hour ~~triage~~crisis response services and emergency examination.

(b) Qualified staff providing ~~triage~~ crisis response services shall be:

- (1) Clinically privileged pursuant to the facility's privileging requirements for crisis stabilization services; and
- (2) Knowledgeable about applicable laws, ODMHSAS rules, facility policy and procedures, and referral sources.

(c) Components of this service shall minimally include the capacity to provide:

- (1) Immediate response, face to face, by telephone and by the provision of mobile services;
- (2) ~~Integrated screening~~Screening for the presence of co-occurring disorders;
- (3) ~~On-site emergency integrated~~Emergency mental health and/or substance use disorder examination on site or via telemedicine;
- (4) Referral, linkage, or a combination of the two services.

(d) The URC shall have written policy and procedures minimally:

- (1) providing twenty-four (24) hour, seven (7) days per week, ~~triage~~ crisis response services;
- (2) Defining methods and required content for documentation of each ~~triage~~ crisis response service provided; and
- (3) Ensuring that individuals who present in crisis with co-occurring disorders are identified, and that there are no barriers to access ~~triage~~ crisis response intervention services based on arbitrary alcohol or drug levels, types of diagnosis or medications.

(e) Compliance with this Section shall be determined by a review of the following: Clinical privileging records, personnel files and job descriptions; policy and procedures, program description; on-site observation; and clinical documentation of services provided.

450:23-3-23. URC Crisis intervention services

(a) URCs shall provide up to twenty-three (23) hours fifty-nine (59) minutes of evaluation, crisis stabilization, and social services intervention per consumer per episode of care and must be available seven (7) days per week for consumers experiencing substance abuse related crisis; consumers in need of assistance for emotional or mental distress; or those with co-occurring disorders.

(b) Licensed behavioral health professionals and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.

(c) The URC shall provide or otherwise ensure the capacity for a practitioner with prescriptive authority at all times for consumers in need of emergency medication services.

(d) Crisis intervention services shall be provided by a co-occurring disorder capable team of social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served and make appropriate clinical decisions to:

(1) Determine an appropriate course of action;

(2) Stabilize the situation as quickly as possible; and

(3) Guide access to inpatient services or less restrictive alternatives, as necessary.

(e) Compliance with this Section shall be determined by a review of the following: personnel files and clinical privileges records; clinical records; PICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.